

# ANNEXURE

D



## **BAVIAANS MUNICIPALITY**

(EC,108)

### **AREA COMMITTEE POLICY AND GUIDELINES**

#### **PREAMBLE**

In view of the responsibilities resting on local government as described in the Constitution of the Republic of South Africa Act, No. 108 of 1996, the Local Government: Municipal Structures Act, No.117 of 1998 and the Local Government: Municipal Systems Act, No. 32 of 2000, wherefrom it is abundantly clear that local government is the sphere of public life within which citizens strive to fulfill the values of human dignity, equality and freedom an area committee system is herewith established as it is one of the most appropriate mechanisms to ensure consultation with the community and accountable local government and that harmonious relationships are fostered and maintained between the municipal council, municipal staff and residents thereby ensuring that the most suitable means are utilized to facilitate the social and economic upliftment of residents and the delivery of services (being basic, and social of nature) whilst at the same time promoting the idea of sustainable development.

#### **OBJECTIVES**

To enhance participatory democracy.

To maintain standards of public / social action commensurate with the Bill of Rights contained in chapter 2 of the constitution and the objects of local government as set out in chapter 7 of the constitution.

To provide political access to those that were previously disadvantaged or are presently alienated or disempowered.

To provide opportunities for interaction between councillors and residents thereby bringing government to the people.

To inform and empower the residents of the Baviaans on matters of general interest to enable meaningful and enlightened public debate on all issues.

To promote the system of area committees as a key opportunity in the aggregation of political interests.

To act as forum of communication between the council, its staff and residents in the Baviaans.

To grant the variety of organized interest groups in the area the opportunity to promote their diverging, conflicting and complementary common values,

To promote the active participation by residents in the process of local government and in particular in planning, service delivery and performance management.

To assist the Bavarians municipal council to make decisions appropriate to the social, economic and environmental conditions of the ward.

To facilitate the social and economic upliftment of residents in a manner consistent with national legislation and policy.

To pay special attention to the alleviation of poverty and the creation of an environment amenable to the equitable distribution of development with due regard to the social and economic make up of Bavarians and to implement appropriate strategies consistent with the integrated development plan and national policy thereon to promote the general wellbeing of the residents of Bavarians Municipality.

## **MEMBERSHIP**

Membership of the committee should be consistent with section 73 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) which provides that a ward committee consists of:

“The councillor representing that ward in the council, who must also be the chairperson of the committee; and  
Not more than 10 other persons as set out in Schedule 1 of which preferably a minimum of 1/3 should be women.”

Note : Council as plenary, has area demarcation and not ward demarcation. Provision is made in section 16 (1) a of the Municipal Systems Act 32 of 2000 which states the following: A municipality must develop a culture of governance that complements formal representative government with a system of participatory governance, and must for this purpose, encourage, and create conditions for, the local community to participate in the affairs of the municipality.....

Section 73(3) a of the Municipal Structures Act states that a municipality must make rules regulating the election of committee members. The members of the area committees can be elected in terms of the following criteria

*By notice in the press and per written communication Municipal Manager must call on all organizations, structures and representative bodies to nominate the determining number of persons as set out by Council to serve on the area committee having regard to gender representation.*



*If more nominations than the required number are received the Municipal Manager will call a public meeting whereupon an election will take place by a show of hands*

*Should two or more candidates receive an equal number of votes recorded the Municipal Manager will elect the committee member by drawing of lots*

*In instances where formal organizations ,structures and representative bodies are not functional or non existent or if Council so directs the Municipal Manager shall call a public meeting at one or more venues and explain to the public the purpose of establishing Area Committees and thereupon hold an election in the manner set out in the forgoing paragraphs*

Any person intending to serve on a ward committee must conform to the following criteria:

*Must accept their nominations and clearly state their willingness to serve on the area committee in writing*

*Must be permanent resident residing within the area on which the area committee is established*

*Must not be in arrears with their municipal services account. Must have made suitable arrangements to pay any outstanding municipal debt on the date of receiving their nomination.*

*Must be a member of any structure, body or organization that nominated such a person to serve on the area committee*

*Must not have been convicted of a criminal offence, which did not carry the option of a fine, within a period of 1 year prior to nomination*

*Must not be an employee of the Municipal Council*

### **FUNCTIONS AND POWERS**

The committee may make recommendations on any matter affecting its area to the area councilor or through the area councilor to the municipal council.

The committee will enjoy authority to deal with the matters listed herein and such authority shall be consistent with section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) which deals with delegations of powers by the municipal council

## DISSOLUTION OF AREA COMMITTEES

*If a member does not pay his/her municipal services account for a period of three months or more and fail to respond to any notices served on them to bring such arrears up to date within a period prescribed on such a notice*

*If a member threaten or physically abuse other members of the committee or in any other way disrupt meetings of the area committee*

*If a member fail to declare any personal pecuniary interest in any matter before the area committee in which he or she or immediate family could benefit*

*If a member is absent with leave for 4 meetings during the 2 year term of office*

*If a member of an area committee fail to attend 3 consecutive meetings without apologies during the 2 year term of office*

*When a committee member ceases to be a member of a structure, organization or body that he or she has been representing*

*On resignation from the committee*

*On expiry of the term of office of area committees*

A vacancy will occur in an area committee under the following circumstances:

## VACANCIES

The term of office of members other than the Chairperson (Area Councillor) will be 2 years wherafter new elections will be held in accordance with the procedure outlined under membership above.

## TERM OF OFFICE MEMBERS

*Area Committees*

*Shall have no executive or decision making powers*

*Shall make recommendations to Council on matters only relating to or that may affect the area*

*Shall enhance participatory democracy in Council matters*

*Shall consult with and report back to the area committee matters relating to the area*

The local council may dissolve an area committee if the committee fails to fulfill its objectives.

### **MEETINGS**

The Committee shall meet at least once quarterly and may by general consent of its members hold once additional meeting in the said 12 week period.

Notice of meetings shall be given to members in writing at least 7 days before the date of such meeting provided that a meeting be deemed to have been duly called if it is so agreed by majority of the members of the committee.

The Chairperson shall preside over all meetings of the committee. In the event of the area councillor being unable to attend a meeting it shall be held on an alternative date of which proper notice shall be given.

Meetings shall be held at localities with due regard to accessibility and other factors prevailing in a ward such as geographical size.

### **QUORUM**

A quorum of committee shall be a majority of its members. No business shall be discussed or transacted unless such quorum is present.

### **RULES OF ORDER**

The standard By-law relating to the Procedure and the Maintenance of order at meetings (PM411/1988) shall Mutatis Mutandis apply to Wa Committees.

### **CODE OF CONDUCT FOR AREA COMMITTEE MEMBERS**

#### **General conduct of Ward Committee Members**

An Area Committee member must:

- perform the functions of office in good faith, honesty and a transparent manner, and
- at all times act in the best interest of the Municipality and in such a way that the credibility and integrity of the Municipality are not compromised.

#### **Attendance at meetings.**

An Area Committee member must attend each meeting of the Committee which he/ she is a member, except when:



- determined by the Municipal Council to be privileged or confidential;
- For the purpose of this item “privileged or confidential information” includes any information:
- unauthorized person.
- A Committee member may not without the permission of the Council or Committee to any privileged or confidential information of the Council or Committee to any unauthorized person.

#### **Unauthorized disclosure of information**

- disclosing privileged or confidential information.
  - making a representation to the Committee; or
  - persuading that Committee in regard to the exercise of any power, function or duty;
  - voting or not voting in a particular manner on any matter before the Committee;
- A Committee member may not request, solicit or accept any reward, gift of favour for:

#### **Rewards, gifts and favours**

- This section does not apply to an interest or benefit which a Committee member, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the Municipality.
- disclose to the Committee of which he / she is a member, any direct or indirect business interests that the member, or any spouse, partner or business associate of the Committee member may have in any matter before the Committee but he / she is not required to withdraw from discussion that particular matter.

An Area Committee member must:

#### **Disclosure of interests**

An Area Committee member who is absent from three or more consecutive Committee meetings must be removed from office as a member of a Committee.

#### **Sanctions for non-attendance of meetings**

- Leave of absence if granted



- discussed in closed session by the Council or Committee;
- disclosure of which would violate a person's right to privacy; or
- declare to be privileged, confidential or secret in terms of law.

This item does not derogate from the right of any person to access to information in terms of national legislation.

### **Intervention in administration**

A Committee member may not, except as provided by law:

- Interfere in the management or administration of any department of the municipal council
- give or purport to give any instruction to any employee of the council
- obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- encourage or participate in any conduct which would cause or contribute to maladministration in the council.

### **Council property**

A Committee member may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that member has no right.

### **Duty of Chairperson of Committees**

If the Chairperson of a Committee, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the Chairperson must:

- authorize an investigation of the facts and circumstances of the alleged breach;
- give the Committee member a reasonable opportunity to reply in writing regarding the alleged breach; and
- report the matter to a meeting of the municipal council after the above paragraphs have been complied with.

The Chairperson must ensure that each Committee member when taking office is given a copy of this Code.

